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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/529,862	04/01/2005	Juliane Krusemann	268099US0PCT	1550

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C. IRVIN MCCLELLAND
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER

HAILEY, PATRICIA L

ART UNIT	PAPER NUMBER
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1755

DATE MAILED: 09/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/529,862

Applicant(s)

KRUSEMANN ET AL.

Examiner

Patricia L. Hailey

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on April 1, 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>04/01/05</u> . | 6) <input type="checkbox"/> Other: _____ |

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Applicants' Preliminary Amendment, filed on April 1, 2005, has been made of record and entered. In this amendment, claims 1-10 have been amended to conform to current U. S. Patent language format, and new claims 11 and 12 have been added.

Claims 1-12 are now pending in this application.

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Applicants' Priority Document was filed on April 1, 2005.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

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4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. *Claims 1-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thornber et al. (U. S. Patent No. 3,939,454) in view of Ortalano et al. (U. S. Patent No. 6,503,317).*

Thornber et al. disclose a method of making a decorative particleboard incorporating wood particles (some or all of which are colored one or more different colors, see the Abstract), said method comprising essentially coloring at least a portion of selected wood particles, drying all the selected particles, forming a mattress therefrom, and hot-pressing said mattress. An alternative method envisages applying a layer of colored particles to a premanufactured particleboard. See col. 1, lines 19-40 of Thornber et al.

Coloring the particles involves using a water soluble substantive dyestuff (considered equivalent to the phrase "liquid colorant preparation"), and maybe effected in a number of ways. Preferably, the substantive dyestuff is absorbed onto the wood; other methods include vat dying and staining. See col. 1, line 64 to col. 2, line 8 of

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Thornber et al.; this disclosure is considered to read upon the claim limitation “applying a liquid colorant preparation”, as recited in **claim 1**.

Thornber et al., in the Examples, depict embodiments in which dyes of various colors are employed to dye particles (Example 2), in endeavors to produce decorative colored particleboards. This disclosure is considered to read upon the limitations of **claims 7-12**.

Thornber et al. do not disclose the components of the water soluble substantive dyestuff.

Ortalano et al. disclose aqueous dye-based pigment dispersions comprising dyes (such as either cationic or anionic dyes, see col. 4, line 17 to col. 5, line 12 of Ortalano et al., which also discloses that the dyes are present in amounts ranging from about 1 wt. % to about 50 wt. %, based on the total weight of the composition), pigments (see col. 5, lines 13-57 of Ortalano et al., which also discloses that the pigments are present in amounts ranging from about 1 wt. % to about 50 wt. %, based on the total weight of the composition), and water (making up the balance of the composition; see col. 5, lines 59-67).

This disclosure is considered to read upon Applicants' components (A), (B), and (D), as recited in **claims 2, 3, and 6**.

The pigment dispersions may also contain additives representing no more than 20 wt. % of the pigment dispersion. Exemplary additives include co-solvents and surface-active agents (used to modify surface tension; considered to read upon

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component (C) in **claims 4 and 6**, as well as component (E) in **claim 2**). See col. 6, lines 1-18 of Ortalano et al.

The pigment dispersions of Ortalano et al. "are used in a variety of industrial applications, such as the manufacture of...pulp and paper, coatings, and textiles to provide coloration." See col. 1, lines 13-16 of Ortalano et al.; this disclosure is considered to read upon the limitation "woodbase materials" recited in claim 1; additionally, in view of this disclosure, motivation to combine the teachings of Ortalano et al. with those of Thornber et al. is deemed proper, in view of Applicants' claims in their present form.

Because both references are generically directed to "coloration of woodbase materials", it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the teachings of Thornber et al., by incorporating therein the pigment dispersions of Ortalano et al., and thereby obtain Applicants' claimed invention.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

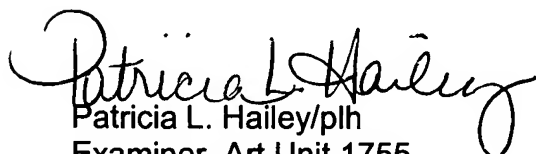
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patricia L. Hailey whose telephone number is (571) 272-1369. The examiner can normally be reached on Mondays-Fridays.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry Lorengo, can be reached on (571) 272-1233. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group 1700 Receptionist, whose telephone number is (571) 272-1700.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Patricia L. Hailey/plh
Examiner, Art Unit 1755
September 18, 2006


J.A. LORENZO
SUPERVISORY PATENT EXAMINER